

Sixth Appellate District

San Jose, California

MONDAY, SEPTEMBER 22, 2008

H031192 PEOPLE v. MARTINEZ

By the Court*:

Appellant's petition for rehearing is denied.

Filed: September 22, 2008

*Before Mihara, Acting P.J., McAdams, J. and Duffy, J.

H032139 PEOPLE v. MORRIS

The judgment is affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Bamattre-Manoukian, J.)

Filed September 22, 2008

H032120 DEPT. OF FAIR EMPLOYMENT & HOUSING v. ESQUIVEL, et al;

AREVALO, et al.

By the Court*:

Appellants' petition for rehearing is denied.

Filed: September 22, 2008

*Before Rushing, P.J., Premo, J. and Elia, J.

TUESDAY, SEPTEMBER 23, 2008

The following cases are submitted this date:

H032623 PEOPLE v. HALL

H031419 PEOPLE v. SALINAS, et al.

H032120 DEPT. OF FAIR EMPLOYMENT & HOUSING v. ESQUIVEL, et al.;

AREVALO, et al.

The requests for publication of the opinion filed in the above entitled action by appellants Gabriel Esquivel, et al., on September 10, 2008, by respondent Department of Fair Employment and Housing on September 12, 2008, and by respondents Luis Arevalo, et al., on September 15, 2008, are denied. The opinion does not establish a new rule of law, nor does it meet any of the other criteria set forth in California Rules of Court, rule 8.1105(c).

In compliance with California Rules of Court, rule 8.1120, the Clerk shall transmit the requests for publication and a copy of this order to the Supreme Court.

(Rushing, P.J., Premo, J. and Elia, J. participated in this decision.)

H032624 PEOPLE v. JACOB ESAU

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed September 23, 2008

Sixth Appellate District

San Jose, California

Tuesday, September 23, 2008 (continued)

H031801 PEOPLE v. BERRING

By the Court*:

Appellant's petition for rehearing is denied.

Filed: September 23, 2008

*Before Elia, J., Rushing, P.J. and Premo, J.

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and Jossie Michel, Deputy Clerk.

H031666 PEOPLE v. LUNA

Cause called and argued by Sara Ruddy appearing for Appellant and by Deputy Attorney General Joan Killeen appearing for Respondent. Cause ordered submitted.

H030526 PEOPLE v. SHAISI

Cause called and argued by Andrew Henry Parnes appearing for Appellant and by Deputy Attorney General Frances Marie Dogan appearing for Respondent. Cause ordered submitted.

H031730 PEOPLE v. GAETA

Cause called and argued by William Robinson appearing for Appellant and by Deputy Attorney General Ronald E. Niver appearing for Respondent. Cause ordered submitted.

H030958 SYTWU v. CITY OF SAN JOSE

Cause called. Eric F. Hartman appears for Appellant and Deputy City Attorney Michael J. Dodson, Sr. appears for Respondent. Both counsel waive oral argument. Cause ordered submitted.

H032364 JESSEN v. YEH

Cause called and argued by Ralph L. Jacobson appearing for Appellant and by Salvatore J. Sunseri appearing for Respondent. Cause ordered submitted.

The court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Duffy, J.; and S. Nasson, Deputy Clerk.

H031122 DEBERT v. ISAACS, et al.

Cause called and argued by Edwin Frey appearing for Appellant and by William Healy and Allonn Levy appearing for Respondents. Cause ordered submitted.

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Tuesday, September 23, 2008 (continued)

Duffy, J. leaves the bench and Bamattre-Manoukian, J. takes the bench.

H031648 BERNDARDI, et al. v. COUNTY OF MONTEREY

Cause called and argued by Wendy Strimling, Deputy County Counsel, appearing for Appellant and by Joel Franklin appearing for Respondents. Cause ordered submitted.

Bamattre-Manoukian, J. leaves the bench and Mihara, J. takes the bench.

H031241 PEOPLE v. BRENTLINGER

Cause called and argued by Jill Kent appearing for Appellant and by Brent Wilner, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Premo, J. leaves the bench and McAdams, J. takes the bench.

H032332 PEOPLE v. WALTON

Cause called and argued by William Robinson appearing for Appellant and by Michael Banister, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Rushing, P.J. leaves the bench and Elia, Acting P.J. takes the bench.

H031462 WILLIS v. WILLIS

Cause called and argued by Robert Roth appearing for Appellant and by David Seiff appearing for Appellant. Cause ordered submitted.

Court adjourns.

H031380 PEOPLE v. FOUSEK

Filed modification of opinion with no change in the judgment. (not published)
(Bamattre-Manoukian, Acting P.J., and Mihara, J.)
Filed September 23, 2008

H031717 PEOPLE v. BARKLEY

The judgment is affirmed. (published)
(Mihara, J.; I concur: Bamattre-Manoukian, Acting P.J.;
Concurring opinion by McAdams, J.)
Filed September 23, 2008

Sixth Appellate District

San Jose, California

Tuesday, September 23, 2008 (continued)

H031958 PEOPLE v. IBARRA

The judgment is affirmed. (not published)
(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., Duffy, J.)
Filed September 23, 2008

WEDNESDAY, SEPTEMBER 24, 2008

H032030 PEOPLE v. YBARRA

By the Court*:

Appellant's petition for rehearing is denied.
Filed: September 24, 2008
*Before Mihara, Acting P.J., McAdams, J. and Duffy, J.

H026759 SILICON VALLEY TAXPAYERS' ASSN., INC., et al. v. SANTA CLARA COUNTY OPEN SPACE AUTHORITY

Pursuant to the opinion of the Supreme Court in *Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431, the judgment of the superior court is reversed. The matter is remanded to the superior court with directions to vacate its orders of July 8, 2003 and October 17, 2003, granting the motions of defendant Santa Clara County Open Space Authority for summary adjudication and to enter new orders denying both motions. The superior court is further directed to vacate its orders of July 8, 2003 and October 17, 2003, denying the summary adjudication motions of plaintiffs, Silicon Valley Taxpayers' Association, Inc., et al., and to enter a new order granting the first of those two motions (plaintiffs' motion for summary adjudication of the second cause of action) for the reasons set forth in the Supreme Court's opinion at pages 450 through 458. Plaintiffs are awarded their costs on appeal. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)
Filed September 24, 2008

H031351 PEOPLE v. MONTEVERDE

Filed modification of opinion with no change in the judgment. Appellants' petition for rehearing is denied. (not published)
(Rushing, P.J., Premo, J., Elia, J.)
Filed September 24, 2008

The following case is submitted this date:

H032899 In re DEVONG G.; D.F.C.S. v. SONJA H.

THURSDAY, SEPTEMBER 25, 2008

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-

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Manoukian, Acting P.J.; McAdams, J.; Duffy, J.; and Jane Valdez Flor, Deputy Clerk.

H031162 PEOPLE v. HOUSTON

Cause called and argued by David Mann appearing for Appellant and by David H. Rose, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Duffy, J. leaves the bench and Mihara, J. takes the bench.

H031682 PEOPLE v. LEE

Cause called and argued by J. Frank McCabe appearing for Appellant and by Karen Bovarnick, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H032143 UFFELMAN v. UFFELMAN

Cause called and argued by Jeralyn Kay Spradlin appearing for Appellant and by Mary Simpson appearing for Respondent. Cause ordered submitted.

H031787 EBEY v. EBEY

Cause called and argued by Barbara Martin Ebey, appearing in propria persona, and by Jack Siedman appearing for Respondent. Cause ordered submitted.

Court recesses until 1:30 p.m.

H031444 LAW OFFICES OF ANN KOO v. MAX GROUP CORPORATION et al.

The judgment is affirmed. (not published)
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed September 25, 2008

H032027 SHISLER et al. v. SANFER SPORTS CARS, INC.

The orders of the superior court dated May 24, 2007, and August 9, 2007, are affirmed. (published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)
Filed September 25, 2008

H031288 QAD, INC., et al. v. SUBRAMANIAN et al.

The order is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed September 25, 2008

Sixth Appellate District

San Jose, California

Thursday, September 25, 2008 (continued)

H032272 SAO et al. v. FREGOSO et al.

The order is reversed. (not published)
(Mihara, J.; We concur: Rushing, P.J., McAdams, J.)
Filed September 25, 2008

H031673 JEFFERY on Habeas Corpus

The order of the superior court granting Jeffery's petition for writ of habeas corpus is modified as follows: The last half of the first full paragraph on page 4 of the order, beginning with the sentence, "There is no evidence supporting the use of the commitment offense . . ." is stricken and replaced with the following: "There is no evidence supporting the finding that Petitioner's motive was inexplicable and, therefore, no evidence to support the Board's reliance upon that finding to deny parole. (Cal. Code Reg., tit. 15, § 2402, subd. (c)(1)(E).) Thus, at the new hearing, the Board may not rely upon the same finding to deny parole." As modified, the order is affirmed. (not published)

(Premo, Acting P.J.; We concur: Mihara, J., Duffy, J.)
Filed September 25, 2008

H032554 PEOPLE v. LOPEZ

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed September 25, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California.
Present: Mihara, Acting P.J.; McAdams, J.; Duffy, J.; and Beth Miller, Deputy Clerk.

H031106 PEOPLE v. ANDERSON

Cause called and argued by Courtney Joseph Shevelson appearing for Appellant and by Sharon Birenbaum, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H031007 PEOPLE v. SULLIVAN

Cause called and argued by Hilda Scheib appearing for Appellant and by Moona Nandi, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H030806 VONDJIDIS v. HEWLETT PACKARD CORPORATION

Cause called and argued by William Wayne Palmer appearing for Appellant and by Carol Lynn Thompson appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, September 25, 2008 (continued)

H032154 SANTE, et al. v. GARNER

Cause called and argued by Ira Leshin appearing for Appellants and by Cyrus A. Tabari appearing for Respondent. Cause ordered submitted.

Court is adjourned.

FRIDAY, SEPTEMBER 26, 2008

The following case is submitted this date:

H032639 PEOPLE v. JOSHUA L.

H032867 PEOPLE v. LUNA

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed September 26, 2008

H032590 PEOPLE v. PEREA

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed September 26, 2008

H031846 PEOPLE v. ESTRADA

The judgment is modified to reduce the penalty assessments on the laboratory fee to \$112.50 and the AIDS education fee to \$157.50. The trial court is directed to prepare an amended abstract of judgment to reflect this modification and to forward the amended abstract of judgment to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed September 26, 2008

H031412 PEOPLE v. DEWOLF

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed September 26, 2008

H032795 PEOPLE v. ORANDAY

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed September 26, 2008

Sixth Appellate District

San Jose, California

Friday, September 26, 2008 (continued)

H032854 PEOPLE v. EVA P.

The order is reversed and the matter is remanded for the juvenile court to order a maximum period of confinement (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed September 26, 2008

H031805 PEOPLE v. MARTINEZ

The judgment is modified to delete the 10-year gang enhancement imposed under section 186.22(b)(1)(C) and the cause is remanded to the trial court for amendment of the abstract of judgment. As modified, the judgment is affirmed. (not published) (McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)

Filed September 26, 2008

H031594 HEWLETT-PACKARD COMPANY v. THE SUPERIOR COURT OF SANTA CLARA COUNTY; RUTLEDGE et al.

The writ is denied. Costs in these original proceedings are awarded to real parties in interest. (published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed September 26, 2008